BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

In the Matter of W.P.NO. 1984 /2003.

PETITIONER UMA PRASAD GUPTA, AGED ABOUT 57 YEARS, SON OF LATE SHRI BHUWAN LAL GUPTA, RESIDENT OF NEW SHANTI NAGAR, BEHIND CHOPRA COMPLEX, RAIPUR, DISTT. RAIPUR (C.G.) PRESENTLY WORKING AS ASSISTANT ENGINEER, C.S.E.B., AARANG, RAIPUR (C.G.)

P. R. No. 1649/03
Presented by Shri Sanjeev Agrawal
dated 05.09.03

VERSUS

RESPONDENTS

1. CHHATTISGARH STATE ELECTRICITY BOARD, THROUGH : SECRETARY, ELECTRICITY BOARD OFFICE, DANGANIYAN, RAIPUR (C.G.)
2. SUPERINTENDING ENGINEER, C.S.E.B. DANGANIYAN RAIPUR.
3. EXECUTIVE ENGINEER (OPERATION AND MAINTENANCE) C.S.E.B., DANGANIYAN, RAIPUR (C.G.)

शपथ आयुक्त
एम.के शुक्ला
रायपुर तहसील कोर्ट

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARY AND / OR ANY OTHEER WRIT OF LIKE NATURE.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 1984 of 2003

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

28.7.2003

Shri Kishore Bhaduri, counsel for the petitioner.

Shri R. S. Jaiswal counsel for the respondents.

The petitioner has preferred this petition under Article 226/227 of the Constitution of India. The petitioner seeks to challenge the order No. 2521, dated 26.6.2003 whereby he has been transferred from Aarang to Dongargarh Chowky Sub Division and the order bearing No. 4001, dated 24.3.2003. Both these orders pertain to transfer of the petitioner from Aarang to Dongargarh Chowky.

By virtue of the order of transfer bearing No. 051-01/15/Establishment/3297 dated 14.7.2002 the petitioner was transferred from Nawapara Rajim Sub Division to Aarang under Executive Engineer (Operation and Maintenance Division) CSEB Raipur. The petitioner is working since 1970 and during his service career he has been posted at many places, which are said to be Tribal Areas for more than five years. However, lastly the petitioner was posted at Aarang from where within a period of 11 months he has been transferred to Dongargarh Chowky. The petitioner is to retire from his services on 31.12.2003 as being superannuated. According to the policy of Chhattisgarh State Electricity Board the Officers who are to be attained the age of superannuation within a year are to be posted near to their home town. Besides this, it is further submitted that under the said circular it is also provided that until and unless it is not extremely necessitated the employees/officers should not normally be transferred within three years of his joining. The petitioner is permanent resident of Raipur. He has one son and one daughter who

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

have attained the marriageable age. The petitioner desires and wishes that he could settle their marriages prior to his retirement and therefore it will be convenient as also in accordance with the directions of the circular Annexure P/5 it is expedient that the petitioner should be posted at Raipur which is his home town.

The petitioner is a patient of Blood Sugar, besides being a patient of High Blood Pressure and Cardiac disease. Even otherwise it is not suitable for the petitioner to work hard on the field and the worksite. The petitioner is presently given to understand that the administrative exigency in the office at Raipur not exists and therefore he can be adjusted/posted at Raipur. The petitioner is to retire on 31.12.2003 i.e. after about five months so in accordance with the circular the respondent Board can very well post the petitioner in his home town at Raipur city. Therefore the transfer orders Annexure P/1 and P/2 be quashed in accordance with the circular Annexure P/5.

Return has been filed on behalf of the respondents in which it has been mentioned that the petitioner has challenged the transfer order dated 24.3.2003 by which he has been transferred from Assistant Engineer, Aarang Sub-Division to Chowki Sub division, Dongargarh. The petitioner has been relieved by order dated 26.6.2003 and Shri S.D.Diwan, Assistant Engineer has joined in place of the petitioner at Aarang on 1.7.2003.The petitioner has filed this petition on 2nd July, 2003 after being relieved on 26.6.2003. The performance of the petitioner was not satisfactory and there were complaints regarding working. Though he was posted at Aarang which is 36 k.m. from Raipur but he used to come to Raipur in the evening leaving the

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Division unattended. On 17.9.2002 and 4.2.2003 break down took place at Aarang Sub-Division and the petitioner was not present and also declined to come at the spot in spite of the direction issued by his seniors. The Board issued show cause notices dated 18.9.2002 and 11.2.2003 to the petitioner for being absent unauthorizedly and for power break down. There was a total power failure for quite sometime. The State Minister also wrote a letter to the Board regarding absence of the petitioner from the Sub Station and great dissatisfaction shown by the general public and complaints made by them and requested for transfer. The post of Assistant Engineer, Chowki Division was lying vacant and looking to the complaints made against the petitioner it was thought proper to transfer him on administrative requirement. The employer has a right to transfer the employee on administrative reasons. The Board on administrative grounds has transferred the petitioner from Aarang to Chowki Sub-Division, and ultimately it has been mentioned that the petition be dismissed.

I have heard learned counsel for the parties. The facts which are not disputed are that the petitioner will be retiring on 31st December 2003 and the petitioner was posted at the present place on 11.7.2002 therefore on the date of transfer i.e. 24.3.2003 the petitioner was to retire within a period of one year. On the basis of the relevant circular upon which both the counsel placed reliance is dated 18.6.1998. Clause 12 of this circular provides that the officers/employees who have left with only one year service till retirement, in the case of class-I and class-II with the permission of the Chairman and in the case of class-III and class-IV with the permission of Engineer-In-Chief, and

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that too looking to the administrative exigency efforts should be made to post that officer/ employee in his home town.

If we look at this clause it does not give right to an employee to be posted in all possibilities in his hometown when one year is left in his retirement. But it seems that this circular has been issued to see that the employee who has served the Board with all sincerity and dedication must be accommodated at the fag end of his career in order to settle his family at his hometown. That can be done only when the service record and conduct of the employee is good and permits the employer to take such a decision.

In view of the above clause if we look in to the Annexure R/1, R/2 and R/3 I do not find any justification to grant any discretionary order in favour of the petitioner. These annexure shows that petitioner has been transferred only on account of his insincerity towards the official work. The petitioner is not entitled for any relief. Therefore, the petition is dismissed.

Sd/-
L.C.BHADOO
Judge

[पीछे देखिये